seems to have been no reversion left in the original lessee.[3] But even if we grant that Slye was a partial assignee of the term, the opinion of the court is still far from satisfactory. While it is doubtless true that some covenants are in their nature divisible, such as the covenant to repair, others again are indivisible, and the present covenant would seem to be of that class. A lessee may no doubt have an action for failure to repair any portion of the premises, where the lessor covenants to repair; but could it be contended that the lessee of forty acres with an option of renewal could insist on the renewal of the lease as to ten acres only? In the cases cited by the court in support of its opinion we think that it will be found that all of the partial assignees united in the demand to renew the lease.[4] We do not question the proposition that a covenant for renewal runs with a leasehold interest, but when that is admitted, it by no means follows that the covenant runs with each separate acre of the land. It may be advantageous to the landlord to grant a renewal of the lease as to the entire property, but disastrous to grant a renewal as to a portion only. To allow such a covenant to be divided seems like making a new contract.

O. K. M.

Landlord and Tenant—Right of Tenant to Make Repairs Under Sections 1941 and 1942 C. C.—Sections 1941 and 1942 of the Civil Code of California give to the lessee of "a building intended for the occupation of human beings" the right to expend up to one month's rent in the repair of dilapidations rendering it untenantable, or to move out, on the failure of the landlord, after notice, to make such repairs. In Wall Estate Co. v. Standard Box Co.,[1] the District Court of Appeal for the First District holds that these sections apply only to dwelling houses and similar structures.

The same construction has previously been enunciated in three other jurisdictions.[2] But the California Supreme Court, although without discussion, has previously followed a different interpretation, having assumed that these sections applied to "business property," [3] to a store.[4] to a hotel lobby,[5] and to a woodshed.[6] It has treated the code provisions as requiring landlords to keep such structures not only "fit for human occupation," but as requiring that they should be fit for the particular business occupancy for which they were leased.

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[3] 1 Tiffany, see 151 p. 917.

[4] Piggott v. Mason (1829), 1 Paige Ch. 413; Cook v. Jones (1894), 96 Ky. 286, 28 S. W. 960.

[1] (Nov. 8, 1912), 15 Cal. App. Dec. 606, 128 Pac. 1020.

[2] Edmison v. Asleben (1886), 4 Dak. 145, 127 N. W. 82; Landt v. Schneider (1904), 31 Mont. 15; 77 Pac. 307; Tucker v. Bennett (1905), 15 Okla. 187, 81 Pac. 423.

[3] Willson v. Treadwell (1889), 81 Cal. 58, 22 Pac. 304.

[4] Tatum v. Thompson (1890), 86 Cal. 203, 24 Pac. 1009.

[5] Dwyer v. Carroll (1890), 86 Cal. 298, 24 Pac. 1015.

[6] Daley v. Quick (1893), 99 Cal. 179, 33 Pac. 859.

It is submitted that this interpretation in requiring the landlord to make the premises fit for the particular business for which they are occupied, goes as far beyond the words of the statute, as the interpretation given by the District Court of Appeal falls short.

The cases supporting the view of the latter court are not satisfactory. In the earliest case, Edmison v. Asleben,[7] the rule is enunciated with no discussion; while a later case [8] in the same State holds that facts similar to those in the Edmison case do not show that a dwelling house was either dilapidated or unfit for the occupation of human beings; so that the facts of the pioneer case in Dakota would seem not to have required the broad ruling there given. The Montana case [9] merely quotes the decision of the Dakota court by way of dictum. In the Oklahoma case,[10] the court confesses a leaning toward the doctrine of the California Supreme Court, but feels itself bound by the Dakota construction, because the Oklahoma statute was adopted from the Dakota code. H. C. K.

Mining Law—Excessive Location—Insufficient Marking.—In the case of Madiera v. Sonoma Magnesite Company,[1] the plaintiff located a magnesite lode claim in a brushy gulch . On account of the roughness of the country and his lack of proper surveying instruments, he was compelled to "step off" the claim. This method of measurement resulted in the marking of a location in the shape of an irregular quadrilateral having one side line over 2000 feet long, and the other 1700 feet in length, while one end line was more than 800 feet long, and the central lode line was 1600 feet in length. Notices were posted where the discovery was made and also at two corners of the claim. When the defendants located their claims, one year later, the notices had been destroyed and the monuments were not to be found. The District Court of Appeal for the First District, in affirming the judgment of the lower court, held that plaintiff's claim was void because it had been insufficiently marked on the ground.

The most interesting point in the case is the court's suggestion that the claim would not have been void because of the excess ground unintentionally included in the boundaries, but would have been valid, except as to the excess. This liberal rule is the prevailing doctrine in most of the State courts as well as in the federal tribunals.[2] Besides

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[7] Edmison v. Asleben (1886), 4 Dak. 145, 27 N. W. 82.

[8] Torreson v. Walla (1902), 11 N. D. 481, 92 N. W. 834.

[9] Landt v. Schneider (1904), 31 Mont. 15, 77 Pac. 307.

[10] Tucker v. Bennett (1905), 15 Okla. 187, 81 Pac. 423.

[1] 16 Cal. App. Dec. 11 (Dec. 27, 1912).

[2] McPherson v. Julius (1903), 17 S. D. 98, 95 N. W. 428; Houson v. Fletcher (1894), 10 Utah 266, 37 Pac. 480; Burke v. McDonald (1890), 2 Idaho 679, 33 Pac. 49; Thompson v. Spray (1887), 72 Cal. 528, 14 Pac. 182; Hewett v. Sullinger (1896), 113 Cal. 547, 45 Pac. 841; Conway v. Hart (1900). 129 Cal. 480, 62 Pac. 44; Richmond Min. Co. v. Rose (1884), 114 U. S. 576; Le Doux v. Forester (1899), 94 Fed. 600; Jupiter